

# **TOWN OF SPENCER**

## **RIGHT TO FARM BY-LAW**

### **SECTION 1. LEGISLATIVE PURPOSE AND INTENT**

This General By-law encourages the pursuit of agriculture, promotes agriculture-based economic opportunities, and protects farmlands within the Town of Spencer by allowing agricultural uses and related activities to function with minimal conflict with abutters and town agencies. This By-law shall apply to all jurisdictional areas within the Town.

The purpose and intent of this By-law is to state with emphasis the Right to Farm accorded to all citizens of the Commonwealth under Article 97. of the Constitution, and all state statutes and regulations thereunder including but not limited to M.G.L. Chapter 40A, Section 3, Paragraph 1; Chapter 90, Section 9, Chapter 111 Section 125A and Chapter 128 Section 1A. We the citizens of Spencer restate and republish these rights pursuant to the Town's authority conferred by Article 89 of the Articles of Amendment of the Massachusetts Constitution ("Home Rule Amendment").

### **SECTION 2. DEFINITIONS**

The word "farm" shall include any parcel or contiguous parcels of land, or water bodies used for the primary purpose of commercial agriculture, or accessory thereto.

The word "farming" or "agriculture" or their derivatives shall include, but not be limited to the following:

- Farming in all its branches and the cultivation and tillage of soil
- Dairying
- Production, cultivation, growing, and harvesting of any agricultural, aquacultural, floricultural, viticultural, or horticultural commodities
- Growing and harvesting of forest products upon forest land, and any other forestry or lumbering operations
- Raising of livestock
- Keeping of horses as a commercial enterprise
- Keeping and raising of poultry, swine, cattle, ratites (such as emus, ostriches and rheas) and camelids (such as llamas and camels) and other domesticated animals for food and other agricultural purposed, including bees and fur-bearing animals.

"Farming" shall encompass activities including, but not limited to, the following:

- Operation and transportation of slow-moving farm equipment over roads within the Town

- Control of pests, including, but not limited to, insects, weeds, predators and disease organisms of plants and animals
- Application of manure, fertilizers and pesticides
- Conducting agriculture-related educational and farm-based recreational activities, including agri-tourism, provided that the activities are related to marketing the agricultural output or services of the farm
- Processing and packaging of the agricultural output of the farm and the operation of a farmer's market or farm stand including signage thereto
- Maintenance, repair, or storage of seasonal equipment, or apparatus owned or leased by the farm owner or manager used expressly for the purpose of propagation, processing, management, or sale of the agricultural products; and
- On-farm relocation of earth and the clearing of ground for farming operations.

### SECTION 3. RIGHT TO FARM DECLARATION

The Right to Farm is hereby recognized to exist within the Town of Spencer. The above described agricultural activities may occur on holidays, weekdays, and weekends by night or day and shall include the attendant incidental noise, odors, dust and fumes associated with normally accepted agricultural practices. It is hereby determined that whatever impact may be caused to others through the normal practice of agriculture is more than offset by the benefits of farming to the neighborhood, community, and society in general. The benefits and protections of this By-law are intended to apply exclusively to those commercial agricultural and farming operations and activities conducted in accordance with generally accepted agricultural practices. Moreover, nothing in this Right to Farm By-law shall be deemed as acquiring any interest in land, or as imposing any land use regulation, which is properly the subject of state statute, regulation, or local zoning law.

### SECTION 4. DISCLOSURE NOTIFICATION

In order to ensure that prospective owners and prospective tenants are aware of the policy of the Town of Spencer expressed in this By-law regarding agricultural uses, the following notification of this policy shall be prominently posted in the Town Hall within 30 days of this By-law becoming effective. Copies will also be made available for distribution.

“This notification is to inform persons and entities who are about to acquire or lease real property within the Town of Spencer that it is the policy of the Town of Spencer to conserve, protect and encourage the maintenance and improvement of the agricultural land, for the production of food and other agricultural products and for the preservation of its natural and ecological value. This notification is to further inform such owners and entities that farming activities, including the raising and keeping of livestock, take place in the Town of Spencer and that such activities may cause or create noise, dust and odors, which adversely impact or are incompatible with the use or enjoyment of property within the Town, including the property about to be acquired or leased.”

Property owners should make efforts to inform prospective tenants or buyers that Spencer is a Right to Farm community. In addition, the notification language required by this section shall appear annually in the Town's Annual Report.

## SECTION 5. AGRICULTURAL COMMISSION

The Town shall establish an Agricultural Commission to represent the Town of Spencer in its pursuit to maintain the rural character and the Spencer farming community in general. Said Commission once appointed shall serve as facilitators for encouraging the pursuit of agriculture in Spencer; shall promote agricultural-based economic opportunities in Town; shall act as mediators, advocates, educators, and/or negotiators on farming issues; shall work for preservation of prime agricultural lands; and shall pursue all methods appropriate to creating a sustainable agricultural community.

The Commission shall consist of five members appointed by the Town Administrator, a minimum of three members who are primarily engaged in farming and two members who are interested in farming. The initial terms for the first members of such Commission shall be two members for a term of three years, two members for a term of two years, one member for a term of one year. Thereafter, the term of each member shall be three years. Up to three alternates may be appointed by the Town Administrator, each for a one-year term. The Town Administrator shall fill any vacancy on said Commission for the unexpired term of the vacancy in order to maintain the cycle of appointments. The remaining members of said Commission may make recommendations of candidates to be appointed by the Board of Selectmen to fill any such vacancy, or take any other action related thereto.

## SECTION 6. RESOLUTION OF DISPUTES

Any person who seeks to complain about the operation of a farm may, notwithstanding pursuing other available remedies, file a grievance with the Select Board, the Zoning Enforcement Officer, or the Board of Health, depending upon the nature of the grievance. The filing of the grievance does not suspend the time within which to pursue any other available remedies that the aggrieved may have. The Zoning Enforcement Officer or Select Board may forward a copy of the grievance to the Agricultural Commission or its agent, which shall review and facilitate the resolution of the grievance, and report its recommendations to the referring Town authority within an agreed upon time frame.

The Board of Health, except in cases of imminent danger or public health risk, may forward a copy of the grievance to the Agricultural Commission or its agent, which shall review and facilitate the resolution of the grievance, and report its recommendations to the Board of Health within an agreed upon time frame.

## SECTION 7. SEVERABILITY CLAUSE

If any part of this By-law is for any reason held to be unconstitutional or invalid, such decision shall not affect the remainder of this By-law. The Town of Spencer hereby declares the provision of this By-law to be severable, or take any other action relative thereto.